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Attorneys for Cross-Defendant
CITIBANK, N.A.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

) NOTICE OF REMOVAL BY
vs) DEFENDANT CITIBANK N.

vs.
DEFENDANT CITIBANK, N.A.

LISA HARDING; and DOES 1 to 15, inclusive,) (Pursuant to 12 U.S.C. § 632)

Defendants.)
)

}

LISA HARDING, an individual, and on Behalf)

of the General Public of the State of California;)
ANDREW J. BREWER, individual,

and ANDREW HARDING, an individual, and)
on Behalf of the General Public of the State of)

On Behalf of the General Public of the State of California }
}

California, }
 }

Cross-complainants,)

VS.)

VISA INTERNATIONAL, INC., a corporation; }

VISA INTERNATIONAL, INC., a corporation,)
VISA USA, INC., a corporation:)

VISA USA, INC., a corporation,
MASTERCARD INTERNATIONAL, INC., a)

corporation; DISCOVER FINANCIAL)

SERVICES, INC., a corporation; RETAILERS)
NATIONAL BANK, BANK ONE)

NATIONAL BANK; BANK ONE)
DELAWARE, N.A.; CHASE MANHATTAN)

DELAWARE, N.A., CHASE MANHATTAN
BANK USA N.A.; CITIBANK N.A.; FIRST

BANK USA, N.A., CITIBANK, N.A., FIRST
HORIZON CORPORATION; FLEET }

FINANCIAL GROUP, INC.; MBNA)

CORPORATION; PROVIDIAN FINANCIAL)
CORPORATION; SEARS NATIONAL)

CORPORATION; SEARS NATIONAL)
BANK; WASHINGTON MUTUAL BANK;)

1 WESTERN UNION HOLDINGS, INC.; and)
2 ROES 1-1000 inclusive,)
3)
4)
5)

4 **TO THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
5 CALIFORNIA:**

6 **PLEASE TAKE NOTICE THAT**, pursuant to Section 632 of Title 12 of the United States
7 Code, cross-defendant Citibank, N.A. (“Citibank”), hereby removes the action entitled Retailers
8 National Bank v. Lisa Harding, et al., Superior Court of the State of California for the County of
9 Alameda Case No. VG03097502 (the “Action”) to the United States District Court for the Northern
10 District of California (the “Northern District”) on the following grounds:

11 1. On August 7, 2003, cross-complainants Lisa Harding and Andrew Harding
12 (together, “Cross-Complainants”), filed their Cross-Complaint for Declaratory and Injunctive
13 Relief in the Action. Citibank has not yet been served with the Cross-Complaint or any pleadings
14 in the Action. A copy of the Cross-Complaint obtained by Citibank is attached hereto as Exhibit A.
15 Citibank will file copies of all pleadings filed in the state court upon obtaining such pleadings from
16 the Court Clerk in the action.

17 2. 12 U.S.C. § 632 (the “Edge Act”) provides in pertinent part:

18 Notwithstanding any other provision of law, all suits of a civil nature at common
19 law or in equity to which any corporation organized under the laws of the United
20 States shall be a party, arising out of transactions involving international or foreign
21 banking, . . . or out of other international or foreign financial operations . . . shall be
22 deemed to arise under the laws of the United States, and the district courts of the
23 United States shall have original jurisdiction of all such suits; and any defendant in
24 any such suit may, at any time before the trial thereof, remove such suits from a
25 State court into the district court of the United States for the proper district by
26 following the procedure for the removal of causes otherwise provided by law. . . .

23 The Action is removable pursuant to Edge Act because: (1) it is a civil suit; (2) Citibank, a national
24 bank, is a federally chartered corporation organized under the laws of the United States; and (3) the
25 suit allegedly arises out of transactions involving international or foreign banking. See Pinto v.
26 Bank One Corp, No. 02 Civ.8477 NRB, 2003 WL 21297300 at * 2 (S.D.N.Y. June 4, 2003); First
27 Nat'l Bank v. Promotek Med. Sys., Inc., 870 F. Supp. 234, 237 (N.D. Ill. 1994); see also Wenzoski
28 v. Citicorp, 480 F. Supp. 1056, 1058 (N.D. Cal. 1979).

1 3. By the Cross-Complaint, Cross-Complainants allege that Citibank and the other
 2 cross-defendants violated the USA Patriot Act (Pub. L. No. 107-56, 115 Stat. 272 (2001)), and
 3 California Business and Professions Code Section 17200, et seq., based on alleged conduct in
 4 connection with Internet gambling transactions involving Internet gambling casinos located outside
 5 the United States. See Cross-Complaint, ¶ 1. Cross-Complainants allege that they utilized their
 6 credit cards provided by national banks, including Citibank, to engage in online gambling
 7 transactions with Internet gambling merchants located outside the United States. See id. ¶¶ 24-45,
 8 49. Cross-Complainants allege that the “off-shore” Internet gambling merchants engage in banking
 9 transactions, including the transfer of funds through credit card transactions, with national banks,
 10 including Citibank, to facilitate and process the alleged Internet gambling transactions, and that the
 11 Internet gambling merchants have at all relevant times operated “outside the direct regulation of
 12 any state and of the United States of America.” Id. ¶¶ 51-52; see also id. ¶¶ 15-18, 24. Cross-
 13 Complainants further allege that the foreign Internet gambling merchants “have made, and continue
 14 to make, unauthorized . . . credit account charges to the credit card accounts of cross-complainants
 15 and other members of the general public.” Id. ¶ 53. According to Cross-Complainants, but for the
 16 international banking transactions between the national banks and the foreign Internet gambling
 17 merchants, Internet gambling merchants would be less able to engage in online Internet gambling.
 18 Id. ¶ 54. Accordingly, because the Action satisfies the requisite elements for original jurisdiction in
 19 this Court under the Edge Act, removal is proper.¹

20 4. Although joinder by all properly served cross-defendants is not required to effect
 21 removal under the Edge Act (see Wenzoski, 480 F. Supp. at 1058), the only cross-defendant that
 22 has been served in the Action, plaintiff and cross-defendant Retailers National Bank (“Retailers”),
 23 has consented to the removal of this Action.

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 28 ¹ As noted above, Citibank has not been served in the Action. Because Citibank may remove this
 action “at any time before the trial” (see 12 U.S.C. § 632), this Notice of Removal is timely under
 the Edge Act.

1 5. Citibank simultaneously is filing a copy of this Notice of Removal with the Superior
2 Court of the State of California for the County of Alameda. Citibank will serve Retailers and
3 Cross-Complainants with copies of this Notice of Removal and the Notice filed in state court.

4 Dated: September 12, 2003

STROOCK & STROOCK & LAVAN LLP
JULIA B. STRICKLAND
ANDREW W. MORITZ

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7 By: _____
8 Andrew W. Moritz

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10 Attorneys for Cross-Defendant
11 CITIBANK, N.A.

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ATTORNEYS AT LAW
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PHONE 310-556-5800

1 **CERTIFICATION OF INTERESTED ENTITIES OR PERSONS**

2 Pursuant to Civil L.R. 3-16, the undersigned, counsel of record for cross-defendant
3 Citibank, N.A. ("Citibank"), certifies that the following listed persons, associations of persons,
4 firms, partnerships, corporations (including parent corporations) or other entities (i) have a
5 financial interest in the subject matter in controversy or in a party to the proceeding, or (ii) have a
6 non-financial interest in that subject matter or in a party that could be substantially affected by the
7 outcome of this proceeding:

8 Citibank, which is a wholly owned subsidiary of Citicorp, which is a wholly owned
9 subsidiary of Citigroup Holdings Company, which in turn is a wholly owned subsidiary of
10 Citigroup Inc., a publicly traded company. In addition, Citibank is the parent corporation of
11 Citibank (South Dakota), N.A.

12 Dated: September 12, 2003

13 STROOCK & STROOCK & LAVAN LLP
14 JULIA B. STRICKLAND
15 ANDREW W. MORITZ

16 By: _____
17 Andrew W. Moritz

18 Attorneys for Cross-Defendant
19 CITIBANK, N.A.

PROOF OF SERVICE

2 STATE OF CALIFORNIA)
3 COUNTY OF LOS ANGELES) SS

I am employed in the County of Los Angeles, State of California, over the age of eighteen years, and not a party to the within action. My business address is: 2029 Century Park East, Suite 1800, Los Angeles, California 90067-3086.

On September 12, 2003, I served the foregoing document(s) described as: **NOTICE OF REMOVAL BY CROSS-DEFENDANT CITIBANK, N.A.** on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

SEE ATTACHED SERVICE LIST

- (VIA PERSONAL SERVICE)** By personally delivering the document(s) listed above to the person(s) at the address(es) set forth above.
 - (VIA U.S. MAIL)** In accordance with the regular mailing collection and processing practices of this office, with which I am readily familiar, by means of which mail is deposited with the United States Postal Service at Los Angeles, California that same day in the ordinary course of business, I deposited such sealed envelope, with postage thereon fully prepaid, for collection and mailing on this same date following ordinary business practices, addressed as set forth below.
 - (VIA FACSIMILE)** By causing such document to be delivered to the office of the addressee via facsimile.
 - (VIA OVERNIGHT DELIVERY)** By causing such envelope to be delivered to the office of the addressee(s) at the address(es) set forth above by overnight delivery via Federal Express or by a similar overnight delivery service.

I declare that I am employed in the office of a member of the bar of this court whose direction the service was made.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on September 12, 2003, at Los Angeles, California.

Gayle Grace
[Type or Print Name]

[Signature]

SERVICE LIST

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3 San Diego, CA 92101

4 The Rothken Law Firm
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